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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,498	10/15/2001	Adrian Clausell	2055-181	4848
22471	7590	05/16/2005	EXAMINER	
PATENT LEGAL DEPARTMENT/A-42-C BECKMAN COULTER, INC. 4300 N. HARBOR BOULEVARD BOX 3100 FULLERTON, CA 92834-3100			PRATS, FRANCISCO CHANDLER	
			ART UNIT	PAPER NUMBER
			1651	
DATE MAILED: 05/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/978,498		CLAUSELL ET AL.	
	Examiner		Art Unit	
	Francisco C. Prats		1651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8, 11-14, 16-20 and 23-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 11-14, 16-20, 23-37 and 41-53 is/are allowed.
- 6) ☐ Claim(s) 6 and 38 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 39 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RD

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DETAILED ACTION

The amendment filed February 15, 2005, has been received and entered. The text of those sections of Title 35, U.S. Code, not included in this action can be found in a prior office action.

Claims 5-8, 11-14, 16-20 and 23-53 are pending and are examined on the merits.

Election/Restrictions

Claim 5 is generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims directed to nonelected species of the claimed method are no longer withdrawn from consideration since all of the claims to the originally nonelected species depend from or otherwise include each of the limitations of an allowed generic claim.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Compliance with Sequence Rules

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth below.

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Specifically, the specification recites tetrapeptides and tetrapeptide derivatives which are encompassed by the rules for amino acid sequence disclosures. See pages 23-31 of the specification. Despite the presence of amino acid sequences encompassed by the rules, the application does not contain:

- (1) A "Sequence Listing" as a separate part of the disclosure on paper copy, as required by 37 C.F.R. 1.821(c);
- (2) A copy of the "Sequence Listing" in computer readable form, as required by 37 C.F.R. 1.821(e).
- (3) A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

While the sequences disclosed do not comply with the sequence rules cited above, the sequences are deemed non-essential to the examination of this application at this time because no sequence is recited in the claims. Applicant is therefore given the entire period for responding to this action to comply with the sequence rules. **FAILURE TO COMPLY FULLY WITH THE SEQUENCE RULES WITHIN THE RESPONSE PERIOD SET FOR THIS OFFICE ACTION WILL BE CONSIDERED AN INCOMPLETE RESPONSE.**

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claims 6 and 38 purport to recite specific enzymes for the assay methods recited in claim 5. However,

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"glutathione" is not an enzyme. Also it is not clear what enzymes are recited by the terms "glycopyranossidase", "v-thrompsin" and "γ-GT". Because it is not clear what these terms mean, a holding of indefiniteness is required. Lastly, note that the term "cholinesterase" is repeated consecutively at line 8 of claims 6 and 38.

Claims 5, 11-14, 16-20, 23-37 and 41-53 are allowed.

Claims 7, 8, 39 and 40 are objected to as depending from rejected claims, but would be allowable if the claims 6 and 38 were rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will

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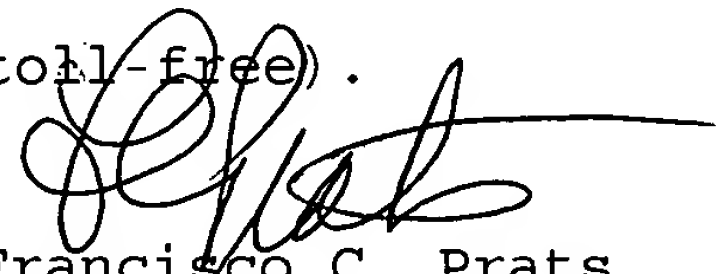
expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francisco C. Prats whose telephone number is 571-272-0921. The examiner can normally be reached on Monday through Friday, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Francisco C. Prats
Primary Examiner
Art Unit 1651

FCP